

**Letterhead of
Private Company or Non-DOD Government Requester**

**To: Commanding Officer, HQ MTMC-DSC ATTN: MTDC-OP, 663
Sheppard Place, Fort Eustis, Virginia 23604-5000**

**Subject: Application to Enter into MTMC's Commercial
Ammunition/Explosives Program (C-AMMO-XXX)**

**Encl: (1) Three signed copies MTMC- Master Commercial Sales Agreement
(MCSA)**

**(2) A list of corporate representatives who are authorized to bind the
corporation and their phone numbers**

**(3) A list of any approved shipments through a Department of
Defense terminal or port in the previous three years**

(4) A list of anticipated agents with address and phone numbers

**(5) A list of the type of explosives and the net explosive weight
anticipated to ship from the terminal**

**(6) An estimate of the number of shipments during the next 12
months**

(7) Certificate of insurance for the at least _____ amount

(8) Proof of HAZMAT certifications

**1. Insert Company Name, submits its request to become an approved
commercial shipper authorized to use the facilities at the United States
Army Military Ocean Terminal Sunny Point at Southport, North Carolina.**

**2. All required Military Traffic Management Command required
documentation is attached.**

**3. If you need any further assistance, contact _____ at the phone
number _____.**

**Representative Name
Title**

Date _____

Master Commercial Sales Agreement for the Sale of Defense Services

- 1. Purpose:** This agreement provides the general requirements for using the United States Army Military Ocean Terminal Sunny Point (MOTSU) terminal services. This agreement is not a contract. The contract between the parties is formed when MOTSU performs the requested service pursuant to a service order agreement that authorizes performance of the requested service. This agreement neither binds the United States Government to provide any services or the Commercial Customer to request any services.
- 2. Parties:** The parties of this agreement are _____, a corporation organized and existing under the laws of the State or country of _____ (Commercial Customer) and the United States Government represented by the United States Army Military Traffic Manage Command (MTMC).
- 3. Authority:** This agreement concerns the general terms and conditions of performance between the parties. It outlines the requirement for the application for shipment of commercial cargo and approval process.
- 4. Definitions:** See attachment 1.
- 5. Request for Shipment:** (a) The Commercial Customer is required to submit a request for shipment to the Military Traffic Management Command, ATTN: MTDC-OPT, Deployment Support Command, 663 Sheppard Place, Fort Eustis, VA 23604-5078 with a copy faxed to Commander, Military Ocean Terminal Sunny Point, Director of Operations at (910) 457- 8625 at least 90 days prior to the ship estimated arrival date at MOTSU projected by the shipper for vessel loading/discharge. This request must be complete and provide all the information required by the Request for Handling of Commercial Ammunition/Explosives, attachment 2 to this agreement. Failure to provide any of the required information or documentation shall result in the return of your request. A request will not be processed for approval until all required information is provided. Once DSC receives a complete request it shall make a determination on whether it can provide the requested services. If MOTSU cannot provide the requested services, then DSC will notify the requester and return the request. If DSC determines that MOTSU can provide the requested services, then DSC will forward the request and a recommendation on whether or not providing the requested services is in the Army's best interests to the MTMC Commander. (b) The Commercial Customer will not submit any request for terminal services to ship initiator explosives or for non-containerized cargo. (c) If the Commercial Customer submits a request

to ship initiator explosives or non-containerized cargo, then DSC shall reject it without any further processing.

6. Request Approval: The Commander of MTMC is the final approval authority for any requests for service. Submittal of a request for shipment by DSC to MTMC does not indicate approval. The approval authority has complete discretion on whether to approve the request and to authorize DSC to enter into a service order agreement. The granting of approval for shipment is based on whether it is convenient for MTMC and in the national interest to provide these services. No services shall be performed by MOTSU without the express written approval from the Commander of MTMC.

7. Service Order Agreement: (a) If providing the requested services is authorized, then DSC will issue a service order agreement stating the specific terms of performance and costs associated with that particular shipment. The terms and conditions of this master agreement are incorporated by reference into each and every service order. The Commercial Customer and DSC must agree to the service order terms before MOTSU provides any services. (b) It will be the responsibility of the shipper to ensure that all commercial transportation service provider(s) are aware of MOTSU requirements when entering and operating on MOTSU.

8. Cancellation: After authorization is granted MTMC reserves the right to unilaterally withdraw authorization and cancel the service order if the Commander of DSC determines that the non-DOD shipment may adversely affect MOTSU's military mission or because of other national interests. DSC will notify the Commercial Customer as soon as practicable if it must cancel an approved shipment. The Army shall not be liable for any costs or financial harm incurred by the Commercial Customer or any others due to the cancellation of a service order and the failure to provide terminal services.

9. Payment: (a) The Commercial Customer agrees to reimburse DSC all costs associated with providing the terminal services. The service order agreement will give an estimated cost for the requested services. The Commercial Customer shall send DSC an advance payment of an amount of 120 percent of the estimated costs, by certified check two weeks prior to the scheduled shipment. Advance check payment will be mailed to: Commander, Deployment Support Command, ATTN: MTDC-RMB, 663 Sheppard Place, Ft Eustis, VA 23604-5000. If the Commercial Customer fails to make the advance payment, MOTSU will not perform the service. (b) DSC will invoice the Commercial Customer and refund any advance payment amount that exceeds MTMC's costs. (c) The Commercial Customer agrees to pay DSC in full within 14 days of receipt of the invoice for all costs associated with performing the service that exceeded the

advance payment. (d) The Commercial Customer shall be charged the current Prompt Payment Act interest rate for any period the invoice is not paid within the 15 days of receipt of the invoice. (e) The Commercial Customer is liable for any costs associated with collecting payment. (f) Failure to make timely payment will result in denial of any future requests for service until the payment is received.

10. Indemnify: The Commercial Customer agrees to indemnify and hold harmless the Army and all other entities of the United States Government from and against any and all causes of actions, suits, claims, damages, and demands of what ever kind or nature, including claims for consequential damages, claims for personal injury, wrongful death, breach of contract, property damage, natural resource damage, loss of income and earnings, civil or criminal fines that are incident to or result from the use of MOTSU or any service provided by MOTSU, hereinafter "damages", and shall defend DSC and all other entities of the United States Government from any legal or equitable action brought against the Army and all other entities of the United States Government based on said damages, and pay all expenses and attorney's fees in connection therewith. Except that portion or percentage of such losses, damages, claim, etc., caused by the gross negligence or wrongdoing of an Army employee or agent.

11. Army Liability: (a) The Army or any other entities of the United States Government shall not be liable for any loss or damage to any cargo, personal property, container, vessel, truck or rail road equipment handled by MOTSU or stored at MOTSU resulting from fire, water, collapse of buildings, sheds, platforms or wharves/piers; settling of floors or foundations; breakage of pipes or for loss or damage caused by frost or elements, nor shall it be liable for any delay, loss or damage resulting from strikes, tumult, insurrection, acts of governmental authorities, force majeure, or acts of God. (b) Any limitation of liability contained in the Bill of Lading or other document by which goods are traveling shall, to the extent offered to DSC as terminal operator and cargo handler, apply to and inure to the benefit of the Army. (c) The extent of Army liability is limited to only the loss or damage to cargo caused by the gross negligent or wrongful conduct of Army employees in the performance of these services.

12. Commercial Customer Liability: (a) The Commercial Customer shall be held responsible for all damages resulting from their use or their agent's use of MOTSU except for that portion of or percentage of such damages, caused by the gross negligence of Army personnel. (b) MTMC reserves the right to repair or contract for the repair of such damage. (c) DSC may detain the vessel responsible for damage until security, acceptable to DSC, has been given in the amount of the damage. Vessel master will be notified prior to sailing of any indication of damage caused by the vessel or crew.

13. Surety: (a) The Commercial Customer shall maintain insurance in the minimal amounts of (1) \$15 million third-party property damage; (2) \$15 million third-party personal injury per person; and (3) \$15 million third-party personal injury per accident. (b) Also, the Commercial Customer shall include the following language in its insurance policy:

(1) The insurer waives any right of subrogation against the United States of America, which might arise by reason of any payment under this policy. (2) The United States of America, Department of the Army is added as an additional insured in operations of the policyholder at or from United States Army Military Ocean Terminal -- Sunny Point, Southport, North Carolina. (c) For each request for shipment the Commercial Customer will provide proof of insurance for this amount. (d) DSC may also require the Commercial Customer to provide proof of additional insurance or a bond for a particular shipment before DSC submits the request to HQMTMC for approval. (e) Failure to provide proof of insurance or extra insurance or bond shall result in the non-processing of the Commercial Customer's request for shipment.

14. Cargo Insurance: The Commercial Customer or the cargo owner alone is responsible for self insuring its own property to protect from any loss.

15. Terminal Rights: (a) MOTSU controls the loading, unloading, and handling of all cargo on the premises and facilities under its control. The Military Ocean Terminal Sunny Point alone will perform any and all services that it offers to perform under this agreement and any service order agreement issued. (b) The MOTSU Commander may refuse the use of MOTSU's facilities for handling any cargo considered by the Commander as constituting undue risk to MOTSU and/or the surrounding area.

16. Discharges: The discharging of ballast, rubbish or dunnage in the slips, channels, or at MOTSU berths is prohibited. The Commercial Customer is responsible for the actions of the vessel. If the vessel makes any prohibited discharges or violates any applicable environmental laws or regulations the Commercial Customer is liable for all costs incurred by the United States Government associated with the prohibited discharge or violation. The vessel must comply with all local, state, federal and international environmental laws and regulations.

17. Environmental: All environmental issues such as spills and/or leaking containers (releases) will be handled in accordance with the MOTSU Installation Spill Contingency Plan. The Commercial Customer agrees to be responsible for all costs associated with the clean up, repackaging and disposal involved with any release.

18. Standard of Performance: When MOTSU handles a shipment it is only responsible to exercise reasonable control and care of the cargo in its custody.

19. Berthing: The MOTSU terminal operator may order any vessel to vacate any berth when DSC deems that the continued presence at such berth would be a potential hazard to the vessel; the berth; MOTSU facilities; the rights, property, or safety of others; or would interfere with MOTSU's military mission. Notice to vessel shall be provided at least four hours in advance of said time to vacate the berth. If a vessel fails to promptly vacate as ordered, the Commercial Customer shall be responsible for any damage or expense that may be incurred by DSC or others as a result of such failure to vacate. DSC shall have the option, but not the duty, of moving the vessel to another location at the risk and expense of the vessel. If such movement occurs, the vessel and/or the Commercial Customer shall hold DSC harmless for any damage or liability incurred as a result of such movement regardless if negligence on the part of the government caused or contributed to the damage. In addition, liquidated damages in the amount of \$1,000 per hour for each hour of non-compliance shall be assessed against the Commercial Customer.

20. Vessel Rejection: MOTSU can reject a vessel at any time if that vessel fails to provide or have on board all required licenses, certifications and other legal documents required for the shipment; if it is determined that the vessel provides a health, safety, or environmental risk, or the shipment adversely affects the military mission, or the Commercial Customer fails to make timely payment, or if the MOTSU Commander determines that either the vessel or its cargo is not suitable for handling through the terminal the vessel will be rejected by MOTSU.

21. Legal Compliance: (a) The Commercial Customer and its agents shall comply with all applicable international, federal, state and local laws, executive orders, rules, policies and regulations. (b) The Commercial Customer is responsible for acquiring all necessary import and export clearances, certifications, approval and other required documentation. (c) Neither MOTSU nor DSC is responsible for processing, acquiring or correcting any certifications or other documentation on behalf of the Commercial Customer or its agents for the shipment of cargo. (d) The Commercial Customer, its agents and vessels to include owners and agents shall permit Government personnel access to manifests, loading, or discharge lists, rail or motor carrier freight bills; or other pertinent documents. (e) The Commercial Customer will ensure that both the U.S. Customs and the U. S. Agriculture Department are notified and available to inspect and clear any inbound shipments and that all documentation is provided to MOTSU's Traffic Management Division prior to vessel arrival.

22. Access: None of the Commercial Customer's employees, agents, or agent's employees will enter any area other than the terminal area without written authorization from the MOTSU Commander.

23. Documentation: (a) The Commercial Customer shall provide DSC all Customs, Coast Guard, Department of State and any other legally required certification or documentation for the handling of the cargo as if it was shipped from or into a United States commercial marine terminal or port. (b) In addition, the Commercial Customer or the vessel shall provide a copy of all ship manifests, loading or discharge lists, rail or motor carrier freight bills or other pertinent documents for the purpose of determining correct billing costs. (c) Failure to provide any required information will result in the rejection of the vessel and terminal services will not be provided. (d) If documentation is incorrect, and must be corrected by MOTSU personnel to facilitate shipment expediting, the commercial shipper will be charged full documentation fee as cited in the DSC cost listing for services performed.

24. Cost Reimbursement Basic Service: The basic-service-cost rate for handling a container through MOTSU is the standard military rate of \$65.73 (Export), \$61.15 (Import) per measurement. This rate includes providing the following basic terminal services to handle the import or export of 20' or 40' commercial container that may hold up to 32 or 64 measurement tons and are not loaded in excess of their rated capacity services during normal duty hours: (a) wharfage of containers for 2 work days (free time), (b) receiving containers, (c) delivering containers, (d) mounting containers, (e) grounding containers, (f) segregating containers, (g) loading or unloading containers from the vessel, railroad cars, and motor trucks, (h) checking containers, and (i) The handling the cargo within the terminal.

25. Extra services: Any services provided by the Army not mentioned in paragraph 23 of this agreement are considered extra services and are not included in the basic-service-cost rate. The Commercial Customer is liable to pay all costs associated with providing these extra services in addition to the basic-service-costs. Extra services include but are not limited to the following services: (a) overtime costs when services are performed at times other than the normal duty hours, (b) special equipment rental and operator costs, (c) container storage, (d) devanning and vanning containers for U.S. Customs or other federal or state inspection, (e) fumigation containers, (f) cleaning facilities left unclean by Commercial Customer or its agents, (g) wharfage use cost, for any period after expiration of the free time cited in paragraph 23(a) above, (h) any delay costs arising from the Commercial Customer's, or its agent's conduct, or their failure to act or provide required documentation, (i) documentation costs incurred by MTMC to correct defective or acquire missing documentation, and (j) Commercial shippers will be charged the same fees

from rail from Leland, NC to MOTSU as any other shipper utilizing this service based on current operating costs at the time of shipment.

26. Cleanliness: All users of the Terminal are responsible for cleaning facilities after their use. If Commercial Customer or its agents fail to properly clean the facilities DSC will charge the Commercial Customer an additional fee for the cleaning costs.

27. Storage: (a) Military Ocean Terminal Sunny Point does not engage in the business of storage or warehousing of property on its wharves and in its facility. The Commercial Customer must coordinate with MOTSU's Traffic Management Division prior to vessel arrival to make arrangements for onward transportation via either commercial highway or commercial rail of inbound cargo. (b) The Military Traffic Management Command is not responsible for any loss or damage to property remaining on the wharves or elsewhere in MOTSU except for that portion of or percentage of such losses or damage caused by the gross negligence of Army personnel. (c) Any property landed or received on any of the wharves or facilities is placed there at the risk of the owner and MTMC has the right to remove any or all such property to any part of MOTSU at MTMC's convenience and at the expense of the owner. (d) Outbound cargo may not be brought into MOTSU for loading onboard a vessel prior to the sailing date of such vessel. Handling of such cargo to or from, on or across, MOTSU shall be a continuous operation from land transport to the vessel. (e) Inbound cargo must be moved directly to land transport and removed from MOTSU without delay. Under no circumstance will cargo be permitted to be stored on MOTSU longer than 1 day.

28. Authority to Board Vessels: Any vessel within MOTSU's jurisdiction must permit MTMC employees or its agents to board the vessel at any time.

29. Manning of Vessels: All vessels at MOTSU shall be manned at all times by at least one person with authority to take charge of the vessel and carry out the orders of the MOTSU Commander or to act in case of emergency. Such vessel shall also be manned at all times by and with a sufficient crew to take any action required by the MOTSU Commander or in an emergency.

30. Representative: The Commercial Customer is required to have an authorized representative present at MOTSU during all operations. This representative will have full authority to act on the behalf of the Commercial Customer.

31. Safe and Strong Gangway: The vessels must have a safe, strong and properly secured gangway of adequate length to permit the safe passage of persons to and from the vessel.

32. Termination: This agreement may be terminated by MTMC at any time for any reason with no obligation or compensation to the Commercial Customer. The Commercial Customer may terminate this agreement with two weeks prior notice. If the Commercial Customer terminates this agreement after the issuance of a service order agreement, the Commercial Customer agrees to reimburse MTMC any costs associated with the processing and cancellation of that service order agreement.

33. The effective date of this agreement is _____.

Commander MTMC

President of XXXXXXXX

**Master Commercial Sales Agreement for the
Sale of Defense Services
Definitions --Attachment 1**

The following definitions are included the Master Commercial Sales Agreement for the Sale of Defense Services and any service orders arising from this agreement.

1. Explosive materials and other dangerous articles consisting of those items in the following categories:

- a. Explosives, Class 1.1, 1.2, 1.3 and 1.4**
- b. Military explosives and hazardous munitions, Class 1.5 and 1.6**
- c. Fertilizer grade ammonium nitrate (as described in A. References 2)**
- d. Initiator explosives are not considered explosive materials for shipment under this agreement.**

2. Defense Security Assistance (DSA) includes Foreign Military Sales (FMS) and the Military Assistance Program (MAP). Foreign Military Sales are made under authority of the Arms Export Control Act to sell defense articles, services, and training to foreign governments. The Military Assistance Program is a grant aid program that is carried out under authority of the Foreign Assistance Act of 1961 as amended, to grant or loan defense articles or services to foreign governments. FMS and MAP are agreements between the United States of America's government and foreign government.

3. Container – For the purpose of this operating procedure, a container is a 20' or 40' commercial container that may hold up to 32 or 64 measurement tons.

4. Normal Duty Hours – Normal duty hours at MOTSU are Monday – Friday from 0730 – 1630 hours.

5. Free Time – The amount of time cargo will be allowed to stay on MOTSU before being charged storage at the MTMC billing rate.

6. ACRONYMS

CCC	- Cost Center Codes
CX	- Categorical Exclusion under the provisions of AR 200-2
DSA	- Defense Security Assistance
DSC	- Deployment Support Command
DCS-JA	- The Office of the Staff Judge Advocate of the Deployment Support Command

FAC	- Facility Codes
FMS	- Foreign Military Sales
FORDTIS	- Foreign Disclosure and Technical Information
FVS	- Foreign Visits System
IAW	- In Accordance With
MAP	- Military Assistance Program
MCSA	- Master Commercial Sales Agreement
MTMC	- Military Traffic Management Command
MTMCR	- Military Traffic Management Command Regulation
MTMC-DSC	- Military Traffic Management Command-Deployment Support Command
MOTSU	- Military Ocean Terminal, Sunny Point
MTDC-OP-T	- Military Traffic Management Command – Deployment Support Command Operations – Terminals Division
NEPA	- National Environmental Policy Act
OPS	- Operations
RCAC	- Reimbursable Cost Accounting Codes
RM	- Resource Management
RMB	- Budget Division
RMI	- Intermodal Cargo Analysis Division
RMM	- Manpower and Programs Division
RMS	- Stevedore and Contracting Systems Division
RVA	- Request for Visit Authorization
TAC	- Transportation Account Codes

_____ date	_____ date
Commander MTMC	President of XXXXXXXX

